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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/629,241	07/31/2000	Maury E. Collett II	CLT-100	3877
23557 7590 02/26/2004 SALIWANCHIK LLOYD & SALIWANCHIK A PROFESSIONAL ASSOCIATION 2421 N.W. 41ST STREET SUITE A-1 GAINESVILLE, FL 326066669			EXAMINER MORRISON, NASCHICA SANDERS	
			ART UNIT	PAPER NUMBER
			3632	
DATE MAILED: 02/26/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/629,241

Applicant(s)

COLLETT, MAURY E.

Examiner

Naschica S Morrison

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 14-16 and 18-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-16 and 18-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This is the fifth office action for application number 09/629,241, Wiring Clip for Securing Electrical Wiring to a Framing Member, filed on July 31, 2000. Claims 14-16 and 18-32 are pending.

#### ***Vacation of Prior Office Action***

The amendment filed on 11/17/03 was initially only processed as a response after final and as a result, an Advisory action was mailed on 12/11/03. However, the amendment was accompanied by a request for continued examination filed simultaneously therewith. Therefore, the Advisory action mailed 12/11/03 has been vacated.

#### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/17/03 has been entered.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 14-16, 18-20, 24-27, and 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,463,189 to Deneke et al. (Deneke) in view of U.S. Patent 2,109,213 to Fearing in view of U.S. Patent 5,141,185 to Rumbold et al (Rumbold) and further in view of U.S. Patent 4,538,782 to Kirschenbaum. Regarding claims 14-16, 18-20, 24-27, and 30-32, Deneke teaches a method for securing electrical wiring to a framing member having a face and two sides comprising: positioning the electrical wiring (12) parallel to the length of the framing member (14) and centrally locating the wiring on the face thereof; and securing the electrical wiring to the framing member by receiving the electrical wiring within a wire receiving area (see Fig. 1) of a securing member (15) and fastening the securing member to the framing member. Deneke does not teach the securing member being a wiring clip including a main body with a wire receiving area and first and second arms, and the method for securing including attachment of the wiring clip over the electrical wiring. Fearing discloses a method of securing electrical wiring to a support having a face comprising: positioning wiring (6) on the support (7); attaching a first arm (1) of a spring steel wiring clip (Fig. 7) to a first side of the support via a first attachment means (2); and moving the wiring clip over the support such that the wiring is positioned within a wire receiving area (within 3 generally) and positioned on the face of the support (Fig. 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have

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substituted the wiring clip of Fearing for the securing member (15) of Deneke because one would have been motivated to provide a securing member that is efficient in operation and easy to apply as taught by Fearing (right column, lines 19-25). Deneke in view of Fearing does not teach the framing member being metal. Rumbold teaches a method of securing electrical wiring to a two by four metal framing member comprising: positioning the wiring (39) parallel to the length of the framing member (see Fig. 1) and centrally positioning the wiring on the face of the framing member, wherein the wiring is located 1 ¼ inches from the first and second sides of the framing member; and securing a first arm of a wiring clip (40) to the metal framing member by screws (150, 151), wherein the first arm is thin enough not to interfere with attachment of drywall. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the first leg of the wiring clip to be thin and penetrated by fastening screws because one would have been motivated to permit attachment of the wiring clip to metal studs without interfering with the installation of drywall as taught by Rumbold (col. 8, lines 14-22). Deneke in view of Fearing in view of Rumbold does not teach the wiring clip including a second leg with a second attachment means. Kirschenbaum discloses a plastic wiring clip (10) attached to a framing member (11) comprising: a main body (15 generally) with a wire receiving area (22, 23), a first arm (35) having a J-hook (36 generally) attached to a first side (13) of the framing member, and a second arm having a bend (adjacent 34) slipped around a second side (12) of the framing member. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the wiring clip of Fearing to be formed of plastic

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and to include first and second arms wherein the arms are located so as to be oppositely disposed about the wire receiving area because one would have been motivated to permit slidable and secure attachment of the wiring clip to generally U-shaped framing members (such as the metal framing member shown in Fig. 12 of Rumbold) as taught by Kirschenbaum.

Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deneke in view of Fearing in view of Rumbold in view of Kirschenbaum, and further in view of U.S. Patent 3,508,730 to Knezo, Jr. (Knezo). Deneke in view of Fearing in view of Rumbold in view of Kirschenbaum discloses the method of securing electrical wiring to a metal framing member with a wiring clip as applied above, but does not teach the step of compressing the wiring within the wire receiving area. Knezo discloses a wiring clip (21 - Fig. 5) comprising: a main body (22); a wire receiving area (the space located under 22) adjacent the main body; first and second arms (23/24; 25) each having respective first and second attachment means; and a substantially resilient, rubber wire compression member (29) located within the wire receiving area; wherein the wiring is compressed within the wire receiving area by the compression member. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the wiring clip to include a resilient, rubber wire compression member within the wire receiving area because one would have been motivated to provide a means for bearing pressure against the wiring to securely hold it against supporting member (i.e. framing member) as taught by Knezo (col. 5, lines 29-35).

Claims 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,626,316 to Smigel et al. (Smigel) in view of Kirschenbaum.

Regarding claims 28 and 29, Smigel teaches a method for securing electrical wiring to a metal framing member (92) having a face (91) and two sides (93) with a wiring clip (10), wherein clip (10) comprises a main body (11 generally), a first arm (12), and a closeable wire receiving area (20, 21) located between the first arm (12) and a second end (at 11 in Fig. 1 generally) and comprising a snap mechanism (29, 34), the method comprising: attaching the first arm (12) of the clip (10) to a first side (93) of the framing member; positioning the electrical wiring (62, 63) parallel to the length of the framing member (92) and centrally locating the wiring on the face thereof; and closeably securing the electrical wiring to the framing member by receiving the electrical wiring within the closeable wire receiving area (defined within 20 and 21). Smigel does not teach the first arm including a first attachment means or the wiring clip including a second arm having a second attachment means for securing the clip to the metal framing member.

Kirschenbaum discloses a wiring clip (10) attached to a framing member (11) comprising: a main body (15 generally) with a wire receiving area (22, 23), a first arm (35) having a first attachment means (36 generally) attached to a first side (13) of the framing member, and a second arm having a second attachment means (adjacent 34) attached to a second side (12) of the framing member. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the wiring clip to include a first attachment means for attaching the first arm to the first side of the framing member and to include a second arm having a second attachment means



for attaching the second arm to the second side of the framing member because one would have been motivated to permit slidable and secure attachment of the wiring clip to generally U-shaped framing members (such as the metal framing member shown in Fig. 5 of Smigel) as taught by Kirschenbaum so as to eliminate the need for permanent fasteners.

### ***Response to Arguments***

Applicant's arguments filed 11/17/03 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the suggestions and motivations to combine are found in the references themselves as cited in the rejections above.

Regarding applicant's argument that Deneke "does not teach or suggest positioning the electrical wiring (12)...", examiner respectfully disagrees. Deneke clearly teaches positioning wiring (12) parallel to the length of framing member (14) so as to be centrally disposed thereon (see especially Fig. 1) and securing the wiring to

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the framing member using a securing member (i.e. staple 15) as was known in the art (see col. 2, lines 6-10). The wiring clip (10) attaches *additional* wiring (16, 20) to the wiring (12) which is directly secured to the framing member (14).

Applicant appears to be unclear about the substitution involving Deneke and Fearing. Deneke teaches a securing member (staple 15) directly attaching a wire (12) to a support member (14). Fearing also teaches a securing member/wiring clip (Fig. 7) directly attached a wire (6) to a support member (7). The rejection above proposes to substitute the securing member/wiring clip (as shown in Fig. 7) of Fearing for the securing member (staple 15) of Deneke based on the suggestions and motivation provided by Fearing. Applicant also appears to be unclear regarding the modification involving Deneke in view of Fearing in view of Rumbold and Kirschenbaum. As stated in the rejection above, "the arm (1)" can be found in Fearing (see Figs. 7 and 8 especially).

Regarding applicant's argument that Rumbold teaches away from incorporating a first *and* second arm, examiner respectfully disagrees. Although Rumbold only discloses one arm for attachment to the stud, the specification of Rumbold does not address or expressly teach that providing an additional arm is undesirable.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Naschica S. Morrison, whose telephone number is (703)

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305-0228. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine telephone number for the Technology Center is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this Application should be directed to the Technology Center receptionist at (703) 872-9325.



*Naschica S. Morrison*

Patent Examiner

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**2/20/04**



ANITA KING  
PRIMARY EXAMINER